IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1641 OF 2005

IN

FIRST APPEAL NO. 1236 OF 2002

Anandrao Ganpatrao Shitole & Anr. ..Appellant.

V/s.

The United India Insurance Co.Ltd.& Ors. ..Respondents.

Shri R.D. Suryawanshi for the Appellant.
Shri D.R. Mahadik i/by S.R.Singh for the Respondent No.1.

CORAM : S.B.MHASE & D.B.BHOSALE,JJ.
DATED : APRIL 12, 2005

PC :-

. This is an Application, seeking withdrawal of the amount deposited by the Respondent Insurance Company. The amount has been deposited in the trial court, as per the directions of this court. The total deposited amount is Rs. 11,26,433/- (Rs. Eleven Lakhs Twentysix thousand and four hundred thirty-three only). Out of this amount, Rs. 1,02,000/- (Rs.One lakh two thousand only) has been allowed to be withdrawn by the earlier order dated 8th April, 2003 passed in Civil Application No. 769/2003. The deceased was the daughter of the present applicant

claimant. She was M.B.B.S and at the relevant time intern. Taking into consideration, all these aspects the quantum of compensation has been fixed by the trial court. The Insurance Company, which has approached to this court is challenging the Award on the ground of quantum. Prima facie we do not find any error committed by the trial court. However, by way of an abundant precaution and to secure the interest of the insurance company and equally to equate the quantum in favour of the applicant also, we pass following order.

ORDER

1 Out of the amount which is lying with the Motor Accident Claims Tribunal, Pune after payment of Rs. 1,02,000/-; 50% of the amount shall be released in favour of the applicants without any security.

2. The remaining 50% to be released on furnishing the bank guarantee.

3. As a result of this order, the order

dated 8th April, 2003, directing to invest the the balance amount in Fixed Deposit, stands modified to the above effect. However, the interest accrued on the fixed deposits, shall be paid to the Applicants.

4. If the amount is withdrawn by furnishing the bank guarantee, the said bank guarantee shall be continuous and operating till the final disposal of the appeal.

. Civil Application is disposed of in the above terms.

(D.B.BHOSALE, J) (S.B.MHASE,J)

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spb/-